

FILED

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

DEC 20 2019

**U. S. DISTRICT COURT
EASTERN DISTRICT OF MO
CAPE GIRARDEAU**

DIVINE KING KINGDOM,)
)
)
Plaintiff,)
)
v.) No. 4:19-cv-3296-SNLJ
)
U.S. DISTRICT COURT, EASTERN)
DISTRICT OF MISSOURI,)
)
Defendant.)

MEMORANDUM AND ORDER

This matter is before the Court upon plaintiff Divine King Kingdom's submission of a civil complaint and a motion for leave to proceed in forma pauperis. Upon consideration of the motion and the financial information provided therein, the Court finds that plaintiff is unable to pay the filing fee. The motion will therefore be granted. Additionally, for the reasons explained below, the Court will dismiss the complaint because it is frivolous and fails to state a claim upon which relief may be granted.

Legal Standard on Initial Review

This Court is required to dismiss an action filed in forma pauperis upon the determination that, *inter alia*, it is frivolous. *See* 28 U.S.C. § 1915(e)(2)(B)(i). An action is frivolous if it "lacks an arguable basis in either law or fact." *Neitzke v. Williams*, 490 U.S. 319, 328 (1989). The term "'frivolous,' when applied to a complaint, embraces not only the inarguable legal conclusion, but also the fanciful factual allegation." *Id.* While federal courts should not dismiss an action commenced in forma pauperis if the facts alleged are merely unlikely, the court can properly dismiss such an action if the allegations in the complaint are found to be "clearly baseless."

Denton v. Hernandez, 504 U.S. 25, 32-33 (1992) (citing *Neitzke*, 490 U.S. 319). Allegations are clearly baseless if they are “fanciful,” “fantastic,” or “delusional,” or if they “rise to the level of the irrational or the wholly incredible.” *Id.*

The Complaint

Plaintiff filed the instant complaint against this United States District Court. He invokes this Court’s federal question jurisdiction and avers that this case involves his First Amendment right to religious freedom. He also avers that the amount in controversy is “unlimited amount of funds to my church bank acct. My Civil Rights are broken by the law.” (ECF No. 1 at 4). He alleges as follows.

1. I inherited Lord of 5 civilized tribes on my grandfather death in 2007, I was honored thru ceremony ritual in 2017. I have been discriminated against for my religion by the ~~State of Missouri~~ USA.
2. 12/18/2019
3. My home address on my MO drivers license
4. Inflamed [illegible] spirit.
5. They failed to protect my civil liberties.

Id. at 5 (editing marks in original). In setting forth his claim for relief, plaintiff writes: “My Religious Ritual is to be chief Ambassador for the US for eternity.” *Id.*

Discussion

Having reviewed and liberally construed the complaint, the Court is unable to discern plaintiff’s claims. The Federal Rules of Civil Procedure require litigants to formulate their pleadings in an organized and comprehensible manner. Even pro se plaintiffs are required to set out not only their alleged claims in a simple, concise, and direct manner, but also the facts in support of such claims. *See McNeil v. United States*, 508 U.S. 106, 113 (1993). Here, plaintiff has not done so. While this Court must liberally construe pro se filings, this Court will not

construct claims or assume facts that plaintiff has not alleged. *See Stone v. Harry*, 364 F.3d 912, 914-15 (8th Cir. 2004) (refusing to supply additional facts or to construct a legal theory for the pro se plaintiff that assumed facts that had not been pleaded). Additionally, plaintiff's allegations and his prayer for relief are nonsensical, and indeed "rise to the level of the irrational or wholly incredible." *Denton*, 504 U.S. at 33. The Court therefore finds that plaintiff's allegations are clearly baseless as defined in *Denton*. The Court will therefore dismiss this action as frivolous and for failure to state a claim upon which relief may be granted.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion for leave to proceed in forma pauperis (ECF No. 2) is **GRANTED**.

IT IS FURTHER ORDERED that this action is **DISMISSED**. A separate order of dismissal will be entered herewith.

IT IS FURTHER ORDERED that plaintiff's Motion to Appoint Counsel (ECF No. 3) is **DENIED** as moot.

IT IS HEREBY CERTIFIED that an appeal from this dismissal would not be taken in good faith.

Dated this 20~~4~~1 day of December, 2019.



STEPHEN N. LIMBAUGH, JR.
UNITED STATES DISTRICT JUDGE